

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

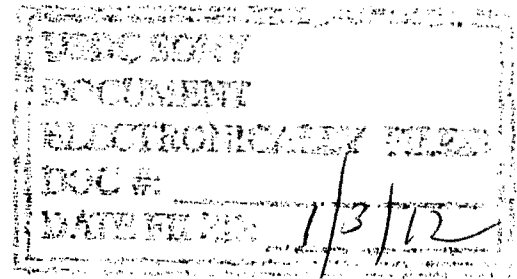
-----X  
JOSEPH FEICHTL,

Plaintiff,

-against-

CHASE BANK, et al.,

Defendants.  
-----X



: REPORT & RECOMMENDATION

: 11 Civ. 3715 (BSJ) (MHD)

TO THE HONORABLE BARBARA S. JONES, U.S.D.J.:

Plaintiff Joseph Feichtl commenced this action on June 1, 2011. The Honorable Barbara S. Jones, United States District Judge, referred the case to me for general pretrial purposes on June 7, 2011.

Since plaintiff had not yet served the defendants, on July 18, 2011 we wrote his attorney a letter notifying her of the referral and reminding her of plaintiff's responsibility under Fed. R. Civ. P. 4(m) to accomplish service of the complaint upon defendants within 120 days after its filing. (See letter dated July 18, 2011 to Tamara M. Harris, Esq.).

On December 22, 2011, at a conference with counsel for both parties, we noted that plaintiff had still not yet served process

on one defendant, Benton Christian. We therefore directed plaintiff to provide an affidavit or declaration by December 29, 2011 demonstrating why the complaint should not be dismissed with respect to Mr. Christian for plaintiff's failure to serve him within the required service deadline. (See Order dated December 22, 2011). We also informed counsel that we would recommend dismissal of the complaint in the absence of such a showing.

Since that time we have not received the required submission or any further communication from plaintiff. Finally, the docket sheet reflects no service of process on Mr. Christian as of this date.

In view of these circumstances, I recommend that the case be dismissed without prejudice with respect to defendant Benton Christian.

Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from this date to file written objections to this Report and Recommendation. See also Fed. R. Civ. P. 6(a), (d). Such objections shall be filed with the Clerk of the Court and served on all adversaries, with extra copies to be delivered to the chambers

of the Honorable Barbara S. Jones, Room 1920, and to the chambers of the undersigned, Room 1670, U.S. Courthouse, 500 Pearl Street, New York, New York 10007. Failure to file timely objections may constitute a waiver of those objections both in the District Court and on later appeal to the United States Court of Appeals. See Thomas v. Arn, 474 U.S. 140, 150-55 (1985), reh'g denied, 474 U.S. 1111 (1986); DeLeon v. Strack, 234 F.3d 84, 86 (2d Cir. 2000) (citing Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989)).

Dated: New York, New York  
January 3, 2012



---

MICHAEL H. DOLINGER  
UNITED STATES MAGISTRATE JUDGE

Copies of the foregoing Report and Recommendation have been sent today to:

Tamara Monet Harris, Esq.  
Law Office of Tamara M. Harris  
350 Broadway, Suite 400  
New York, NY 10011  
(212) 334-1050  
Fax: (212) 334-1051

Stacey L. Blecher, Esq.  
J.P. Morgan Chase & Co.  
Legal Department  
1 Chase Manhattan Plaza, 26th Floor  
New York, NY 10005  
(212) 552-1038  
Fax: (212) 552-5766